

Message Text

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PAGE 01 STATE 171508
ORIGIN OPIC-06

INFO OCT-01 ARA-10 ISO-00 EB-07 L-03 /027 R

DRAFTED BY OPIC/GC:RSTERN
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L/EB:S.R.BOND
ARA/AND/C:D.W.COX
EB/IFD/OIA:D.GRANT
ARA/ECP:JO'MAHONY

-----036883 221623Z /47

P 221444Z JUL 77
FM SECSTATE WASHDC
TO AMEMBASSY BOGOTA PRIORITY

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E.O. 11652: N/A

TAGS: EINV

SU ECT: CABOT CORPORATION INCONVERTIBILITY CLAIM

REF: (A) 76 BOGOTA 11612 (B) 77 STATE 034696

1. HAVING CONSIDERED THE RELEVANT DOCUMENTS, FACTS AND POINTS RAISED IN REFTEL A OPIC AND THE DEPARTMENT HAVE DETERMINED TO FOLLOW THE USUAL PROCEDURE IN CASES SUCH AS THIS, BY USING LOCAL CURRENCY RECEIVED PURSUANT TO AN INVESTMENT GUARANTY CLAIM PAYMENT FOR USG ADMINISTRATIVE PURPOSES. HOWEVER, NOTICE OF INTENT TO DO SO WILL BE GIVEN TO THE GOC AFFORDING IT AN OPPORTUNITY TO OBJECT IF THE GOC CHOOSES TO DO SO.

2. THIS COURSE OF ACTION IS BASED UPON THE FOLLOWING CONSIDERATIONS:
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PAGE 02 STATE 171508

A) THE GOC AGREED TO THE INITIATION OF OPIC'S INVESTMENT GUARANTY PROGRAM BY THE 1962 AGREEMENT, WHICH IS STILL IN EFFECT, WITH FULL KNOWLEDGE OF HOW OPIC INTENDED TO UTILIZE CURRENCY ACQUIRED IN CONNECTION WITHINCONVERTIBILITY CLAIMS - THE SAME AS SPECIFIED IN THE 1955 AND 196U AGREEMENTS. THE GOC RELUCTANCE TO ENTER INTO A COMPLETE, STAN-

DARD AGREEMENT WAS GROUNDED IN OBJECTIONS TO THE SUBROGATION

AND INTERNATIONAL ARBITRATION PROVISIONS, NOT THE USE OF
LOCAL CURRENCY PROVISIONS.

B) THE GOC SPECIFICALLY GAVE ITS APPROVAL TO THE
ISSUANCE OF OPIC INSURANCE ON THE PROJECT REALIZING THAT
THE USG COULD BE COMPELLED TO PAY INCONVERTIBILITY CLAIMS
AND ACQUIRE PESOS PURSUANT TO THE INSURANCE BY REASON OF
CHANGES IN EXCHANGE CONTROL LAWS.

C) BASED ON THE ABOVE, OPIC AND THE DEPARTMENT BELIEVE
IT IS POSSIBLE TO CONCLUDE THAT USG IS ENTITLED TO EXPEND
THE PESOS. TO REQUEST PERMISSION OF THE GOC TO DO SO
WOULD COMPROMISE THIS POSITION. ACCORDINGLY, IT HAS BEEN
DETERMINED TO SIMPLY AFFORD NOTICE AND OPPORTUNITY TO
OBJECT BEFORE EXPENDING THE FUNDS.

3. IT IS NOTED THAT IN VIEW OF PRESENT COLOMBIAN FOREIGN
EXCHANGE EARNINGS, THE GOC SHOULD BE LESS LIKELY TO OBJECT
TO THIS ACTION WHICH WILL REDUCE DOLLAR INFLOW IN COLOMBIA.

4. EMBASSY IS CORRECT IN ASSERTION MADE IN PARAGRAPH 4 OF
REFTEL A. NO ISSUE OF SUBROGATION IS PRESENT IN THIS CASE,
THE ISSUE RAISED IN PARA 7(B) OF REFTEL A DOES NOT ARISE.
OPIC'S PRACTICE IS NOT TO SEEK TO RECOVER EXCHANGE LOSSES
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PAGE 03 STATE 171508

FROM LOCAL GOVERNMENTS AND WOULD NOT SEEK TO DO SO IN THIS
CASE.

5. OPIC, WITH APPROVAL OF THE DEPARTMENT, WILL SEND THE
FOLLOWING LETTER TO MINISTER OF FOREIGN AFFAIRS LIEUANO.
IF NO OBJECTION IS RECEIVED WITHIN 30 DAYS, THE FUNDS WILL
BE TRANSFERRED TO U.S. DISBURSING OFFICER TO PAY EMBASSY
EXPENSES. BEGIN TEXT: DEAR MR. MINISTER: THIS IS TO
INFORM YOU THAT THE OVERSEAS PRIVATE INVESTMENT CORPORATION
("OPIC") HAS PAID AN INCONVERTIBILITY CLAIM TO CABOT
CORPORATION WITH RESPECT TO ITS INVESTMENT IN CABOT
COLOMBIANA, S.A. NECESSITATING THE ACQUISITION BY OPIC OF
12,098,861.31 COLOMBIAN PESOS. THE INSURANCE COVERAGE
UNDER WHICH THE CLAIM WAS PAID WAS ISSUED WITH THE APPROVAL
OF THE CHIEF OF THE ECONOMIC SECTION OF THE MINISTRY
OF FOREIGN AFFAIRS (BY LETTER OF OCTOBER 21, 1964) IN
ACCORDANCE WITH THE OCTOBER 5, 1962 AGREEMENT CONCERNING
INVESTMENT GUARANTIES IN EFFECT BETWEEN OUR GOVERNMENTS.
OPIC PLANS TO TRANSFER THE FUNDS ACQUIRED TO THE UNITED
STATES EMBASSY FOR THE PAYMENT OF EMBASSY EXPENSES.
SINCERELY YOURS, RUTHERFORD M. POATS, ACTING PRESIDENT
END TEXT. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CLAIMS
Control Number: n/a
Copy: SINGLE
Sent Date: 22-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE171508
Document Source: CORE
Document Unique ID: 00
Drafter: RSTERN
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Expiration:
Film Number: D770262-0559
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770728/aaaaaxuj.tel
Line Count: 116
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 74b35b65-c288-dd11-92da-001cc4696bcc
Office: ORIGIN OPIC
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
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Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 12-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1773118
Secure: OPEN
Status: <DBA CHANGED> mcm 20041119
Subject: CABOT CORPORATION INCONVERTIBILITY CLAIM
TAGS: EINV, EFIN, CO, US, CABOT CORP
To: BOGOTA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/74b35b65-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
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22 May 2009
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